



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



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## ***MEMORANDUM***

**TO:** TACIR Commission Members

**FROM:** Harry A. Green *Harry*  
Executive Director

**DATE:** June 11, 2008

**SUBJECT:** Progress Report on Election Study

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1. At the December 2006 TACIR meeting, Commissioners voted to undertake a study of the election system in Tennessee. Not long after, two House State and Local Government subcommittees referred bills to TACIR for study. At the same time, the Joint Committee to Study the Voter Confidence Act of 2006 ("Joint Committee") requested that TACIR staff study the voting machine issue first. Two of the nine bills referred to TACIR dealt with this issue:

**SB0639(Marrero)/HB1764(Kernell)** - Election Laws - Requires the county election commission in any county using a computerized direct recording electronic system approved by the coordinator of elections and the state election commission to provide for each polling place a voter-verified paper audit trail system. - Amends TCA Section 2-5-216.

**SB1217(Ford)/HB1373(Kernell)** - Election Laws - Requires each voting machine by November 2008 election to have capability of producing hard copy of voting totals or have documented method in place capable of retrieving voting totals from machine and producing hard copy of voting totals. - Amends TCA Title 2, Chapter 9.

There were five additional bills dealing with the same issues, paper trails for Tennessee voting machines. Staff's first election report, *Trust but Verify*, made recommendations on these issues which were presented to the Commissioners, to the Joint Committee, and to the State and Local

Government Committees in both Houses. *Trust but Verify* was published in January 2008.

The bill that the Joint Committee was set up to study was filed again in the 105<sup>th</sup> General Assembly as **SB1363(Haynes)/ HB1256(Moore)**. While this bill was not referred to TACIR, staff's recommendations were reflected in the final version, which passed during the recent legislative session. Counties are expected to begin the transition to optical scan voting machines after the November election.

2. A draft of staff's second report, *Keeping the List*, is available. It addresses five of the seven remaining bills referred to TACIR for study:

**SB0227(Ketron)/HB0938(Maggart)** - Election Laws - Requires a voter to present qualified photographic identification before voting; voters without proper identification shall be allowed to cast provisional ballots. - Amends TCA Title 2, Chapter 7, Part 1.

**SB1182(Black)/HB1279(Lynn)** - Election Laws - Requires state coordinator of elections to seek to enter agreements with other states for the purpose of comparing data to identify duplicate voter registrations. - Amends TCA Title 2, Chapter 2.

**SB1610(Norris)/HB0408(Todd)** - Election Laws - Requires citizenship status to be proven prior to registration to vote and requires certain procedures to ensure identity and citizenship status prior to voting. - Amends TCA Title 2 and Title 4.

**SB1611(Norris)/HB0409(Todd)** - Election Laws - Requires identification and proof of citizenship for voter registration. - Amends amend TCA Title 2.

**SB1909(Harper)/HB1397(Lynn)** - Election Laws - Requires certain county election commissions to periodically undertake certain actions to purge voter registration lists of persons whose registrations are based upon false or inaccurate residential information. - Amends TCA Title 2, Chapter 2.

At the request of the House bill sponsors, the first four were addressed in a memo to the Elections subcommittee that referred them so that they could be scheduled for consideration before the end of the legislative session. The memo presented the relevant information from staff's draft of *Keeping the List*. It was presented as strictly informational, and staff made no recommendations on the above bills. Staff was concerned that the last bill had legal issues and sent a memo to the sponsors suggesting that they

request an Attorney General's opinion on the legality of the bill's requirements.

3. Staff plans two more reports in its study of elections. The first covers election preparation and election day mechanics and includes ballot design, voting machines distribution, and the recruitment and training of poll workers. The second is on small elections and non-traditional voting and will cover election supersites, early voting, absentee/overseas voting, and consolidating local elections with county/state elections. This report will address the last two bills referred to TACIR:

**SB1040(Kyle)/HB1929(Rinks)** – Municipal Government - Requires all municipal elections, except in any county having a metropolitan form of government, to be held in conjunction with either the regular November or regular August election. - Amends TCA Title 6.

**HJR0041(Lynn)** – General Assembly, Studies - Creates joint committee to study offsite early voting locations.

Staff made general recommendations for post-election audits and recounts in *Trust but Verify* and had planned to cover these in greater detail in a report on post-election issues. The bill mentioned earlier that requires voting machine paper trails, **SB1363(Haynes)/ HB1256(Moore)**, also includes specific post-election audit and recount requirements and has passed both Houses. Since these issues have already been legislated, staff no longer plans to pursue them further.

4. One additional research brief is planned. At the December 2007 meeting, staff reported to the Commissioners on the results of its survey of county election administrators. One question on the survey was not included in that report as staff was still gathering additional information. Counties were asked to provide expenditure reports for their county election offices for two consecutive years. The number of counties that did so was too small for staff to compare election-year and non-election-year expenses and estimate the cost of elections. Staff has since supplemented the responses with data from the County Technical Advisory Service (CTAS). Staff plans a brief that will include the survey results as well as an election cost model using that data.
5. Some issues were discussed but did not involve any of the bills referred to TACIR or fit into any of the reports staff planned. Commissioners may want staff to address some of these in separate briefs or in a wrap-up report of miscellaneous issues. These include: public financing of local and/or statewide election campaigns, methods of choosing presidential electors, candidate qualifications, and making some offices currently appointed or subject only to recall elections become popularly-elected offices.

## Election-Related Bills Filed in 2007 that were Referred to TACIR

House Bill and Sponsor	Senate Bill and Sponsor	Composite Abstract	Last Action	Date	Origin of referral to TACIR	TACIR Action
<b>Auditable Paper Trail</b>						
HB1373 by Kernell	SB1217 by O. Ford	Election Laws - Requires each voting machine by November 2008 election to have capability of producing hard copy of voting totals or have documented method in place capable of retrieving voting totals from machine and producing hard copy of voting totals. - Amends TCA Title 2, Chapter 9.	Action def. in s/c Elections to TACIR	4/3/2007	Referred to TACIR 4/3/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Recommendations made in <i>Trust but Verify</i> .
HB1764 by Kernell, U. Jones	SB0639 by Marrero, Flinn	Election Laws - Requires the county election commission in any county using a computerized direct recording electronic system approved by the coordinator of elections and the state election commission to provide for each polling place a voter-verified paper audit trail system. - Amends TCA Section 2-5-216.	Taken Off Notice For Cal. in s/c Elections	3/25/2008	Referred to TACIR 4/3/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Recommendations made in <i>Trust but Verify</i> .
<b>Poll Access</b>						
HJR0041 by Lynn		General Assembly, Studies - Creates joint committee to study offsite early voting locations.	Action Def. in s/c State Government to TACIR	2/14/2007	Referred to TACIR 2/14/2007 by State Government subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Planned brief on small elections and non-traditional voting
<b>Registration and Residency Requirements</b>						
HB0408 by Todd, Eldridge, Campfield, Bell, Gresham, H. Brooks, Maggart, K. Brooks, Crider, Hawk, Watson, Coley, Casada, Baird, Niceley, Ford, P. Johnson, Dunn, Harrison, Floyd, Harwell, Hensley, Sargent, McManus, J. Cobb, DuBois, Hill, Lynn, C, Johnson	SB1610 by Norris, Black	Election Laws - Requires citizenship status to be proven prior to registration to vote and requires certain procedures to ensure identity and citizenship status prior to voting. - Amends TCA Title 2 and Title 4.	Taken Off Notice For Cal. in s/c Elections	3/25/2008	Referred to TACIR 4/17/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Addressed in <i>Keeping the List</i> .

## Election-Related Bills Filed in 2007 that were Referred to TACIR

House Bill and Sponsor	Senate Bill and Sponsor	Composite Abstract	Last Action	Date	Origin of referral to TACIR	TACIR Action
<b>Registration and Residency Requirements (cont.)</b>						
HB0409 by Todd, Eldridge, Campfield, Bell, Gresham, H. Brooks, Maggart, K. Brooks, Crider, Hawk, Watson, Coley, Casada, Baird, Niceley, Ford, P. Johnson, Dunn, Harrison, Floyd, Hensley, Sargent, McManus, J. Cobb, DuBois, Hill, Lynn, C, Johnson	SB1611 by Norris	Election Laws - Requires identification and proof of citizenship for voter registration. - Amends amend TCA Title 2.	Taken Off Notice For Cal. in s/c Elections	3/25/2008	Referred to TACIR 4/17/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Addressed in <i>Keeping the List.</i>
HB0938 by Maggart, Lynn, Swafford, DuBois, Watson, Gresham, Eldridge, K. Brooks, J. Cobb, Floyd, P. Johnson, Coley, Campfield, Bell, H. Brooks, Crider, Hawk, Casada, Baird, Niceley, Ford, Dunn, Harrison, Hensley, Sargent, McManus, Hill, C. Johnson, Todd	SB0227 by Ketron, Beavers, Johnson, Stanley, Tracy, Black	Election Laws - Requires a voter to present qualified photographic identification before voting; voters without proper identification shall be allowed to cast provisional ballots. - Amends TCA Title 2, Chapter 7, Part 1.	Action def. in s/c Elections to TACIR Passed in Senate	4/17/2007	Referred to TACIR 4/17/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Addressed in <i>Keeping the List.</i>
HB1279 by Lynn, Maggart, Hardaway, Gresham	SB1182 by Black, R. Finney, O. Ford	Election Laws - Requires state coordinator of elections to seek to enter agreements with other states for the purpose of comparing data to identify duplicate voter registrations. - Amends TCA Title 2, Chapter 2.	Signed by Governor	5/12/2008	Referred to TACIR 4/3/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Addressed in <i>Keeping the List.</i>

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House Bill and Sponsor	Senate Bill and Sponsor	Composite Abstract	Last Action	Date	Origin of referral to TACIR	TACIR Action
<b>Registration and Residency Requirements (cont.)</b>						
HB1397 by Lynn	SB1909 by Harper	Election Laws - Requires certain county election commissions to periodically undertake certain actions to purge voter registration lists of persons whose registrations are based upon false or inaccurate residential information. - Amends TCA Title 2, Chapter 2.	Action def. in s/c State to TACIR	4/18/2007	Referred to TACIR 4/18/2007 by State subcommittee of House State & Local Government Committee after the testimony of the House sponsor, Representative Lynn, her constituent who asked for the bill, and Brook Thompson. Questions about the legality of the bill were raised and it was agreed to send it to TACIR for further study.	Addressed in a memo to the subcommittee and sponsors recommending that an Attorney General's opinion be requested. Also listed in <i>Keeping the List</i> .
<b>Miscellaneous Other</b>						
HB1929 by Rinks	SB1040 by Kyle	Municipal Government - Requires all municipal elections, except in any county having a metropolitan form of government, to be held in conjunction with either the regular November or regular August election. - Amends TCA Title 6.	Action def. in s/c Elections to TACIR	4/17/2007	Referred to TACIR 4/17/2007 by Elections subcommittee of House State & Local Government Committee at the beginning of the subcommittee meeting without additional comment.	Planned brief on small elections and non-traditional voting